

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the County of Los Angeles Department of Public Works for an order authorizing the construction of a new bridge across the Alameda Corridor at East 74<sup>th</sup> Street (CPUC number 114-3.70-A) in the unincorporated County of Los Angeles, California.

Application 06-04-007  
(Filed April 10, 2006)

**O P I N I O N****Summary**

This decision authorizes the County of Los Angeles (County) to construct the East 74<sup>th</sup> Street grade-separated highway-rail crossing (grade separation) bridge over Alameda Corridor Transportation Authority's (ACTA) trench segment tracks in an unincorporated area of the County.

**Discussion**Proposed Project

The County proposes to construct the East 74<sup>th</sup> Street grade separation bridge over ACTA's tracks to provide vehicular access to a proposed commercial development, "Florence and Alameda Commercial Center." The development will be constructed adjacent to the ACTA right-of-way in the unincorporated area in the County known as Florence-Firestone.

The site plan proposes vehicular access over the ACTA trench at two locations along Alameda Street. The first location is at East 76<sup>th</sup> Street, an existing overcrossing constructed as part of a grade separation project completed

in 2002 and authorized in Decision 01-05-046, dated May 14, 2001, of Application 00-12-013. The second location will be at the proposed East 74<sup>th</sup> Street grade separation. The application indicates that these two access roadways are needed to improve traffic circulation in the surrounding area.

### Environmental Review

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources Code Section 21000 et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission must approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is the public agency with the greatest responsibility for supervising or approving the project as a whole.<sup>1</sup> Here, the County, through its Board of Supervisors (BOS) and Community Development Commission (CDC), is the lead agency for this project and the Commission is a responsible agency. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving this project.<sup>2</sup>

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<sup>1</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

<sup>2</sup> CEQA Guidelines, Sections 15050(b) and 15096.

The Commission reviewed the lead agency's Final Environmental Impact Report (EIR), Notice of Determination (NOD), and Statement of Overriding Considerations (SOC). The NOD is attached as Appendix A of this order. We find the documents adequate for our decision-making purposes.

The Final EIR included an analysis of potential environmental impacts related to the project and alternatives related to traffic and circulation, noise, air quality, and land use. Safety, transportation, and noise as they relate to the proposed grade-separated highway-rail crossing are within the scope of the Commission's permitting process. The environmental documents identified significant impacts related to traffic and circulation. The significant impacts relate to intersection levels of service. The Final EIR discussed the following unavoidable significant impacts due to operation of the Florence and Alameda Commercial Center at the Alameda Street and Florence Avenue intersection and combined cumulative and project traffic at the three intersections stated below as well as one significant impact, at the Santa Fe Avenue and Florence Avenue intersection, that a mitigation measure would reduce to a less-than-significant level:

- Operation of the Florence and Alameda Commercial Center would increase traffic levels on the local circulation system and would result in a significant impact at the Alameda Street and Florence Avenue intersection. Because no feasible mitigation is available, the Florence and Alameda Commercial Center's impact at that location is considered "unavoidably significant."
- Combined cumulative and project traffic resulting from the Florence and Alameda Commercial Center would result in significant impacts at four study intersections. The locations of these four intersections are at Alameda Street and Florence Avenue, Santa Fe Avenue and Florence Avenue, Pacific

Boulevard and Florence Avenue, and Alameda Street and Nadeau Street. Because no feasible mitigation is available for three of the intersections (Alameda Street and Florence Avenue, Pacific Boulevard and Florence Avenue, and Alameda Street and Nadeau Street), the cumulative impacts at these three intersections are considered “unavoidably significant.” The addition of a northbound protected left-turn phase to the existing traffic signal at the Santa Fe Avenue and Florence Avenue intersection as a mitigation measure would reduce the project and cumulative impacts at that intersection to a less-than-significant level.

The environmental documents also identified significant impacts related to noise. The significant impacts relate to project construction and the operation of the retail shopping center. The Final EIR discussed the following significant impact relating to the construction of the project, including the grade separation, that mitigation measures would reduce to less-than-significant levels:

- Florence and Alameda Commercial Center construction would intermittently generate high noise levels on and adjacent to the project site. Project construction may affect sensitive receptors near the project site. Project construction is considered a “significant but mitigable” impact. Mitigation measures proposed to mitigate potential noise impacts from construction are:
  1. Limit project site construction activities to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays. This mitigation measure would reduce impacts associated with construction-related noise to a less-than-significant level.
  2. Operate all diesel equipment with closed engine doors and equip all diesel equipment with factory-recommended mufflers. Use electrical

power to run air compressors and similar power tools. These mitigation measures would further reduce noise impacts during construction.

When a project results in significant unavoidable adverse effects, CEQA requires the decision-making body of the lead agency to balance the benefit of the project against its unavoidable adverse effects in determining whether to approve a project. If the lead agency approves a project with significant environmental effects, the lead agency is required to adopt an SOC, pursuant to CEQA Guidelines Section 15093. The lead agency is required to describe the specific reasons to support its action.

The environmental documentation indicates the Florence and Alameda Commercial Development Project will result in unavoidable adverse impacts related to traffic. The project benefits will include providing shopping access to residents in the area, thereby creating approximately 750 full-time, permanent jobs for the community and addressing the blight conditions that currently exist at the project site. Due to the project's economic benefit to the community, the County has determined that the project benefits outweigh, and therefore override, the significant unavoidable adverse environmental impacts due to traffic.

In reviewing the Final EIR, NOD, and SOC, we find that with respect to issues within the scope of our permitting process, the County, where possible, adopted feasible mitigation measures to lessen the significant environmental impacts to less-than-significant levels. We will adopt the County's findings and mitigations for purposes of our approval.

With respect to the SOC, we find that the County enumerated several significant benefits associated with the proposed project which appeared, on balance, to reasonably justify approval of the project despite certain significant

and unavoidable impacts. Therefore, we accept and adopt the SOC for purposes of our approval.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) inspected the site of the proposed grade separation. After reviewing the need for and the safety of the proposed grade separation, RCES recommends that the Commission grant the County's request.

The application is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad. A vicinity map and detailed drawings of the proposed grade separation are shown in Appendices B and C, respectively, attached to this order.

### **Categorization and Need for Hearings**

In Resolution ALJ 176-3170, dated April 13, 2006, and published in the Commission Daily Calendar on April 14, 2006, the Commission preliminarily categorized this application as ratesetting and preliminarily determined that hearings were not necessary. No protests were filed, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3170.

### **Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

**Findings of Fact**

1. The Commission published notice of the application in the Commission Daily Calendar on April 12, 2006. There are no unresolved matters or protests; a public hearing is not necessary.

2. The County requests authority, under Public Utilities Code Sections 1201-1205, to construct the proposed East 74<sup>th</sup> Street grade separation bridge over ACTA's trench segment tracks in an unincorporated area of the County.

3. The construction of the proposed East 74<sup>th</sup> Street grade separation bridge is necessary to provide vehicular access to a proposed commercial development, "Florence and Alameda Commercial Center," which will be constructed adjacent to the ACTA right-of-way in the unincorporated County area of Florence-Firestone.

4. Public convenience, necessity, and safety require construction of the proposed East 74<sup>th</sup> Street grade separation bridge.

5. The County, through its BOS and CDC, is the lead agency for this project under CEQA, as amended.

6. The County, through its BOS, approved the project and adopted the Final EIR, NOD, and SOC for the Florence and Alameda Commercial Center, which includes the proposed grade-separated highway-rail crossing, pursuant to CEQA. In the NOD, the County found that "The project will have a significant effect on the environment." Mitigation measures were made a condition of the approval of the project. Findings were made pursuant to the provisions of CEQA.

7. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Final EIR, NOD, and SOC.

8. Safety, transportation, and noise as they relate to the proposed grade-separated highway-rail crossing are within the scope of the Commission's permitting process.

9. For the approved project, the lead agency identified environmental impacts related to traffic and circulation as well as noise.

### **Conclusions of Law**

1. The Final EIR, NOD, and SOC adopted by the County as the documentation required by CEQA for the crossing project are adequate for our decision-making purposes.

2. We adopt the County's NOD. With respect to significant impacts from traffic and circulation as well as noise, we find that the lead agency adopted feasible mitigation measures where possible to substantially lessen the environmental impacts to a less-than-significant level. We adopt these mitigation measures for purposes of our approval. With respect to the significant and unavoidable environmental impacts, we find that the County enumerated several significant benefits to justify project approval. Therefore, we also adopt the SOC for purposes of our approval.

3. The application should be granted as set forth in the following order.

### **O R D E R**

#### **IT IS ORDERED** that:

1. The County of Los Angeles (County) is authorized to construct the proposed East 74<sup>th</sup> Street grade-separated highway-rail crossing bridge, identified as CPUC Crossing No. 114-3.70-A, over Alameda Corridor Transportation Authority's (ACTA) trench segment tracks, in the unincorporated County area of Florence-Firestone, at the location and substantially as shown by

the vicinity map attached to the application and Appendix B attached to this order and the plans attached to the application and Appendix C attached to this order.

2. The County, through its Department of Public Works, shall bear the cost of construction at its own expense. The County and ACTA (parties) shall bear the cost of maintenance in accordance with an agreement between the parties. Should the parties fail to agree, the Commission will apportion the cost of maintenance by further order.

3. Within 30 days after completion of the work under this order, ACTA shall notify the Commission's Consumer Protection and Safety Division - Rail Crossings Engineering Section (RCES) in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work.

4. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. The Commission may revoke or modify authorization if public convenience, necessity or safety so require.

5. A request for extension of the three-year authorization period must be submitted to RCES at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

6. The application is granted as set forth above.

7. Application 06-04-007 is closed.

This order becomes effective 30 days from today.

Dated \_\_\_\_\_, at San Francisco, California.

# APPENDIX A

## ENVIRONMENTAL DOCUMENT

### NOTICE OF DETERMINATION

To: Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

From: Los Angeles County Community  
Development Commission  
2 Coral Circle  
Monterey Park, CA 91755  
Attention: Donald Dean

X County Clerk  
County of Los Angeles  
12400 Imperial Highway, Room 2001  
Norwalk, CA 90850

#### Subject

Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Florence and Alameda Commercial Development Project

#### Project Title

<u>2004011058</u>	<u>Los Angeles County CDC</u> <u>Donald Dean</u>	<u>(323) 890-7186</u>
<u>State Clearinghouse Number</u> <u>(If submitted to Clearinghouse)</u>	<u>Lead Agency</u> <u>Contact Person</u>	<u>Area Code/Telephone/Extension</u>

The project is located in the unincorporated community of Florence in Los Angeles County. Project site is bounded by Florence Avenue to the north, the Alameda Corridor freight rail facility and Alameda Street to the west, Roseberry Street to the east, and Leola Street to the south.

#### Project Location (include county)

**Project Description:** The proposed project involves construction of an approximately 238,000 square foot development, including 220,000 square feet of shopping center leasable space and 18,000 square feet of general office space. The shopping center would include both major and minor retail tenants. The general office space would be located on the upper level of the development. The project also includes 1,153 surface parking spaces.

This is to advise that the County of Los Angeles Board of Supervisors has approved the above described project on July 5, 2005 and has made the following determinations regarding the above described project:

1. The project ☒ will ☐ will not have a significant effect on the environment.
2. ☒ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
3. ☐ A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
4. Mitigation measures ☒ were ☐ were not made a condition of the approval of the project.
5. A statement of Overriding Considerations ☒ was ☐ was not adopted for this project.
6. Findings ☒ were ☐ were not made pursuant to the provisions of CEQA.

This is to certify that the final Mitigated Negative Declaration with comments and responses and record of project approval is available to the General Public at:

Los Angeles County Community Development Commission  
2 Coral Circle  
Monterey Park, CA 91755

05 0015867

SS  
Signature (Public Agency)

7/11/05  
Date

Environmental Officer  
Title

**FILED**

Date received for filing at OPR:

THIS NOTICE WAS POSTED

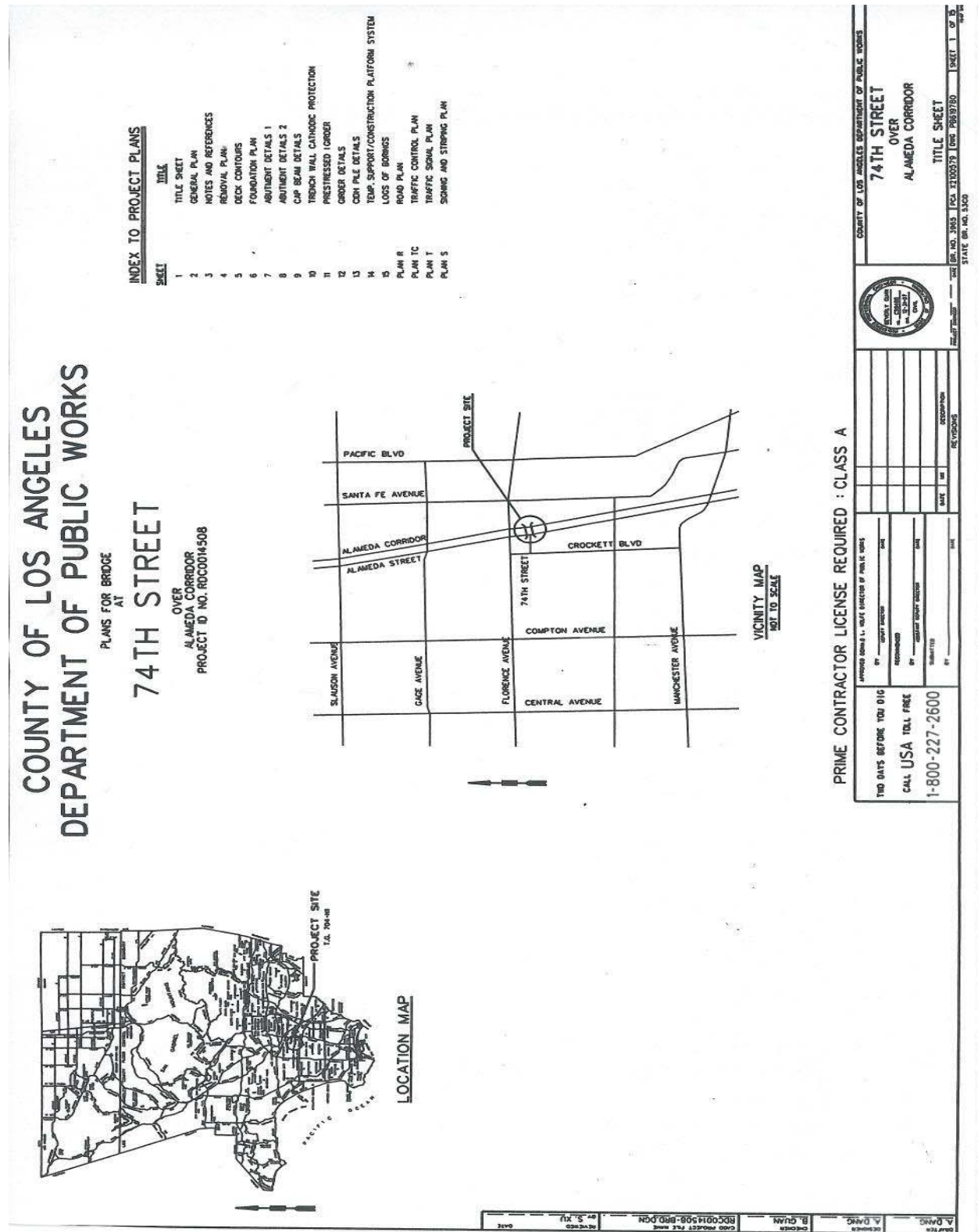
ON JUL 11 2005  
UNTIL AUG 11 2005

JUL 11 2005

CONNIE B. MCCORMACK COUNTY CLERK

12.1.1 NRP/IV

## APPENDIX B

VICINITY MAP

## APPENDIX C

PLANS